IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.256 OF 2007.
IN
WRIT PETITION (PIL) NO.1987 OF 2005

Public Concern for Governance
Trust ..Petitioners

versus

State of Maharastra & Others ..Respondents

Mr.T.N.Subramaniuam with Ms. Soma Singh i/b. Sanjay Udeshi & Co for the applicant in Notice of Motion.

Mr.M.P.Mokashi AGP for the State.

Ms. A.Savla for the Respondent No.2, BMC.

Ms. Anuja Jhunjhunwala i/b. Munir Merchant for the Respondent No.8

Mr.B.K.Barve for the Respondent No.10.

Coram : V.M.Kanade &
S.R.Sathe,
Vacation Judges.
Dated : 8th May, 2007

P.C.

1. Heard learned Counsel for the petitioner and the respondents. This Notice of Motion is taken out by the petitioner seeking the following reliefs:

a) that pending the hearing and final disposal of this petition this Hon'ble Court be pleased to issued a temporary order and

injunction restraining respondents Nos.1 to 4 from granting any permission to respondent No.20 to this Notice of Motion from holding any Rally or gathering on 27th May 2007 or any other day and if such permission has already been granted then to forthwith withdraw/revoke. suspend such permission.

b) that pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to order and direct the respondents Nos.1 to 4 to take all necessary steps to ensure that no rally or gathering is held at the Race Course either on 27th May, 2007 or any other day.

c) That pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to issue a temporary order and injunction restraining respondent Nos.1 to 4 from granting any permission to respondent No.10 or to any other person/Political Party, Organization etc. from holding any rally or gathering on the Race Course.

2. It is submitted that this Court by Order dated 14.7.2004 in PIL Writ Petition (L) No.1915 of 2004 has granted interim relief in terms of prayer clause (f), (g) and (h) to the said petition, and the respondents 2 and 3 in the said petition were restrained from sanctioning any approval, proposal for any development and or construction on the land comprising Mahalaxmi Race Course. It is submitted that the petitioners have an apprehension that the respondent No.10 who is a newly added party, is likely to hold a public meeting sometime in the last week of May, 2007 which would result in the property being damaged and that apprehension is that if the rally is held in the Polo Ground, irreparable loss would be caused to the entire property of the petitioner. It is submitted therefore that interim relief in terms of relief claimed in the Notice of Motion may therefore be granted.

3. The learned Counsel appearing on behalf of the respondent No.10 has submitted that permission has been granted by the Competent Authorities on 5.1.2007 and thereafter this fact was been duly published in all the news papers. It is submitted

that permission was granted after the procedure as prescribed under the relevant provisions was duly followed by the respondent No.10. It is submitted that an undertaking also has been given to the Corporation and to the Honourable Chief Minister of the State, who is the Chairman of the Receiving Committee. It is submitted that this application, therefore had been filed at a belated stage. It is further submitted that in the past, such rallies have been organised and held by the other parties i.s. Congress Party and B.J.P. and that the objection which was been raised by the petitioners was malafide.

4. In our view at this stage it is not possible to grant interim relief as prayed by the petitioners in the motion. Interim order has been passed by this Court in 2005. Rallies have been held in the past on the Race Course by other political parties. The petitioner could have applied for modification of the interim order. However, no such application has been made in the past. There is no reason, therefore, why respondent No.10 should be restrained for holding such rally if undertaking is given by them to the concerned authority that no damage would

be caused to the Race Course and the Polo Ground. The Counsel appearing on behalf of the respondent No.10, on instructions from his client states that in fact what is being organized on the polo ground is a religious ceremony on behalf of Buddha Diksha Golden Jubilee Celebration Committee. They undertake that the property of the petitioner shall not be damaged in any way and no permanent structure would be erected on the said Polo Ground. He undertakes to file affidavit of the respondent No.10 in the aforesaid terms within one week from today. Hence, no case made out by the petitioner for grant of relief as prayed in their motion.

. Notice of Motion disposed of accordingly.

(V.M.Kanade, J.)

(S.R.Sathe, J.)